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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/905,174      | 07/13/2001  | Robert E. Dvorak     | BLFR 1006-1         | 2749             |

22470 7590 09/01/2005

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| EXAMINER |
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VAN DOREN, BETH

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| ART UNIT | PAPER NUMBER |
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3623

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/905,174

**Applicant(s)**

DVORAK ET AL.

**Examiner**

Beth Van Doren

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-56 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20050317</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-26, drawn to adjusting sales history or projected demand based on impact estimates associated with disruptive events, classified in class 705, subclass 705/10.
  - II. Claims 27-31, drawn to transitioning from an old item to a new by automatically out dating the old item and in dating the new item, classified in class 705, subclass 8.
  - III. Claims 32-41, drawn to transitioning from an old item to a new item by translating presentation quantity data for the old item to the new item, classified in class 705, subclass 8.
  - IV. Claim 42, drawn to transitioning from an old item to a new item by translating causal calendar events for the old item to the new item, classified in class 705, subclass 8.
  - V. Claims 43-56, drawn to automatically linking the inventory and outstanding purchase orders for old items to new items, classified in class 705, subclass 7.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, IV, and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as adjusting sales history or adjusting projected sales demand based on a disruptive event (i.e. no transitioning from an old to new item using the different methods of groups II-V). Invention II has separate

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utility such as setting dates for the transition from an old item to a new item (i.e. no adjusting sales history or projected demand based on the impact of a disruptive event, no presentation quantity data, no causal calendar, and no outstanding purchase orders). Invention III has separate utility such as determining presentation quantities for new items (i.e. no adjusting sales history or projected demand based on the impact of a disruptive event, no causal calendar, no outdating of an old item, no outstanding purchase orders). Invention IV has separate utility such as translating casual calendar events, such as promotions, from the old item to the new item (i.e. no adjusting sales history or projected demand based on the impact of a disruptive event, no determining presentation quantities, no outdating of an old item, no outstanding purchase orders). Finally, invention V has separate utility such as linking the inventory and outstanding purchase orders for old items to new items (i.e. no adjusting sales history or projected demand based on the impact of a disruptive event and none of groups II-IV are used to link inventory and outstanding purchase orders for old items to new items). See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-V, the search required for Group II is not required for Groups I or III-V, the search required for Group III is not required for Groups I-II and IV-V, the search required for Group IV is not required for Groups I-III and V, the search required for Group V is not required for Groups I-IV, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*bvd*  
bvd

August 29, 2005

*Susanna Diaz*  
SUSANNA M. DIAZ  
PRIMARY EXAMINER  
*AU 3623*